

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF OKLAHOMA

3
4 LYNNETTE MASON,

5 Plaintiff,

6 vs.

No. CIV-2020-1217-D

7 STATE FARM MUTUAL AUTOMOBILE
8 INSURANCE CO., d/b/a STATE FARM
9 INSURANCE CO., a Foreign
10 For-Profit Entity,

11 Defendant.

12 VIRTUAL VIDEO DEPOSITION OF BRETT TYNER

13 Taken on Behalf of the Plaintiff

14 On June 16, 2022, beginning at 9:22 a.m.

15 All Parties Appearing Remotely Via Zoom

16

17 APPEARANCES:

18 Appearing on behalf of the PLAINTIFF

19 Simone Fulmer Gaus
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(Appearances continued on next page)

1 **speed this up. I said "maybe."**

2 A I --

3 **Q Moving on.**

4 A I agree. I'm simply restating it to make
5 sure that I am fully answering your question.
6 Please bear with me. I'll do my best to do that,
7 but because your questions sometimes include terms
8 that are a bit confusing to me, I try to clarify it
9 the best I can by restating portions of the
10 question.

11 **Q Well, if you don't understand my question,**
12 **please ask.**

13 **We talked about the uninsured situation.**
14 **We have another situation that we call underinsured;**
15 **correct?**

16 A We do. I think we've spoken about that,
17 yes, ma'am.

18 **Q And then the third is where we have this**
19 **unknown driver; correct?**

20 A The third is where we have this unknown
21 driver. If you're asking me if there are -- and
22 I've already testified to this -- if there were
23 someone who was liable and that person were unknown,
24 it may be that the uninsured motorist coverage
25 benefits would be in play in a case such as that.

1 Q Okay. And in the -- strike that.

2 That unknown driver, in that scenario,
3 there's also a term I have heard called a "phantom
4 driver." Have you heard that term?

5 A Not only have I heard it, but I've seen it
6 written in this case. The "phantom" being the one
7 that isn't identified. Yes, ma'am, I have seen that
8 term.

9 Q And you have seen it before this case,
10 haven't you?

11 A Yes. I've seen it and heard it, but, most
12 recently, specifically related to this claim.

13 Q So can you tell me what the purpose of UM
14 coverage is, no matter which scenario might trigger
15 the need for payment?

16 A The -- I think -- I think the best answer
17 I have to that is that it pays damages that are
18 contemplated according to the terms of the policy
19 specific to uninsured motorist coverage. I can't
20 say it any better than the insuring agreement does
21 in the policy.

22 Q I have taken depositions of State Farm
23 claims employees in the past and I have been told
24 that the purpose of UM is to make the insured whole
25 up to the policy limit. Have you heard that before?

1 set, I can -- I can answer the questions as it
2 relates to that. If you're asking me general
3 questions, please know that someone could be held
4 liable for a loss and be making a claim under the
5 terms of the same policy for uninsured motorist
6 coverage. That -- that, I have seen play out in
7 Oklahoma claim files regularly.

8 **Q If someone is making a claim for liability**
9 **coverage, they are not making a claim for that**
10 **coverage as a liability insured; correct?**

11 A I'm so sorry. You would have to give me
12 the facts and circumstances of the case and then I
13 could answer that more -- more clearly.

14 But an insured seeking liability coverage
15 under a policy could be seeking uninsured motorist
16 coverage under the same policy as an insured
17 entitled to contract benefits. If that's the
18 question, that's my best effort to answer it.

19 **Q And that's not my question at all, sir.**
20 **There is liability coverage and there is**
21 **UM coverage; correct?**

22 A That is correct. Those two coverages
23 exist, yes, ma'am.

24 **Q If someone is injured in a car wreck and**
25 **they claim it is caused by someone else, liability**

1 coverage and UM coverage may both be triggered
2 whether they're an insured under that policy or not;
3 correct?

4 A Both coverages could be triggered,
5 depending on the facts and circumstances of a claim.
6 That is true.

7 Q And if that injured person is making a
8 claim under liability coverage, they are not, as an
9 insured, claiming the liability coverage should be
10 paid to them, are they? They are a third-party in
11 that instance; correct?

12 A I'm so sorry, Ms. Fulmer. I don't
13 understand that question. You're asking me, as I
14 understand it, is a person asking for benefits under
15 a liability policy asking for payment under the
16 liability coverage? I simply don't understand that
17 question.

18 Q And that's not my question, sir.
19 My question is: If someone is a
20 third-party to a liability coverage, they are not
21 the insured making a claim; correct?

22 MR. ACQUAVIVA: Object to the form of the
23 question.

24 THE WITNESS: I can't tell you that
25 they're not an insured making a claim. I've already

1 where we have to first -- where we often do
2 determine coverage and fault.

3 **Q And whether either liability or UM**
4 **coverage is going to be payable depends on the**
5 **determination of who is at fault; correct?**

6 A I don't believe that that would be a sole
7 determining factor, but I think that whether or not
8 coverage exists would help us determine whether or
9 not something was payable, and I think fault would
10 help us determine whether or not something was
11 payable, all of it depending on the facts and
12 circumstances of a claim.

13 **Q And, sir, I will again ask you to listen**
14 **very carefully to my question. This question**
15 **pertains to the issue of fault.**

16 **With regard to liability coverage and UM**
17 **coverage, in order to determine if either one of**
18 **those coverages require payment, the issue of fault**
19 **will need to be determined; correct?**

20 A I don't -- I don't know what you mean by
21 "will need to be determined." If you're saying that
22 we would investigate a claim for liability in the
23 abstract, I would agree that we do that. Generally
24 speaking, we would do that in claims that involve
25 liability issues. And then, beyond that, I can tell

1 you that we would do it specific to the facts and
2 circumstances.

3 Q What does an adjuster do to determine
4 fault?

5 A I think, Ms. Fulmer, that that, again, is
6 dependent on the facts and circumstances of a case.
7 I think it's our responsibility to act reasonably
8 and appropriately and to address the claims as they
9 exist, but, generally speaking, I don't have a
10 better answer than that.

11 Q Mr. Tyner, you have claims adjusters who
12 work -- you supervise; true?

13 A I do have adjusters who work for me, and I
14 do supervise them, yes, ma'am.

15 Q If they get a claim that comes in and they
16 ask, "What am I supposed to do?" do you just say
17 that "You have to act reasonably"?

18 A Generally, Ms. Fulmer, we're dealing with
19 specific facts and circumstances when they ask me
20 the question, and, for that reason, my guidance is
21 specific to those facts and circumstances. I think
22 that the guidance I give them is reasonable and
23 appropriate.

24 Q And my original question in this regard
25 is: What does an adjuster do to determine fault?

1 A I don't recall seeing a tape-recorded
2 statement. I do recall seeing several versions that
3 were recorded, versions of loss that were provided
4 by Ms. Harrison, so --

5 Q And when you talk --

6 A If we're going to talk about recordings,
7 if you'll tell me what type of recording. That's
8 where we started with the first Notice of Loss, just
9 let me know what kind of recording you're speaking
10 of, because I do see several records that relate to
11 her report of the accident.

12 Q Can we agree, Mr. Tyner, that the only way
13 that we would really know exactly the words that
14 Ms. Harrison said at the time that she is reporting
15 the fact of this loss would be if someone had taken
16 a tape recording of it?

17 MR. ACQUAVIVA: Object to the form of the
18 question.

19 THE WITNESS: Yeah. I don't know -- I
20 don't know how -- I don't know how you would know
21 precisely what words she spoke, but a recorded
22 statement would be one means by which you would know
23 precisely what words were spoken. I can agree with
24 that.

25 BY MS. GAUS:

1 Q So we've looked at the loss report in
2 17.2. We're looking here on page 147, and I think
3 we agreed that those are pretty much the same with
4 the exception of one thing about the rear-ended;
5 right?

6 A Yeah. And I believe that was the same
7 too, Simone -- and I'm sorry, I don't mean to be
8 that familiar -- Ms. Fulmer. I think you may have
9 just misread that single word, and then, beyond
10 that, there are other -- there are other sentences
11 there --

12 Q Yes. And I --

13 A That was my testimony.

14 Q Yes.

15 A But, essentially, it's the same FOL, Facts
16 of Loss, if you will.

17 Q Okay. And just so the record is clear, I
18 did not misread it because I was reading directly
19 from the loss report, which does not have
20 "rear-ended." Okay?

21 A And I'm mistaken. And I can't see both
22 documents, so you are absolutely correct.

23 Q Okay. I just -- yeah. And that's, again,
24 one of the disadvantages of the way we're trying to
25 do this. But if you will look with me now, sir --

1 and I will represent to you, the next time a note
2 regarding what Ms. Harrison says about the wreck is
3 on page 144 -- or Bates No. 144, and it's an entry
4 on 11/11/2015, and it's this one at 4:47 p.m.

5 Do you see where I am?

6 A I do see that, yes, ma'am.

7 Q And if you will look, starting here -- do
8 you see where I am?

9 A I do see where you are, yes, ma'am.

10 Q And you're welcome to read the whole note,
11 but the part I'm pointing to is "She indicated
12 another vehicle ahead of V2 slammed on their brakes
13 causing V2 to stop suddenly and V1 rear-ended them.
14 Lyndee stated she was cited for FTC."

15 Did I read that correctly?

16 A Yes, I believe you did.

17 Q And "FTC," I have discerned -- and correct
18 me if your understanding is different, let me know,
19 but "FTC" is following too close. Is that how you
20 understand it?

21 A Yes. Yes, ma'am. Some version of that,
22 yes.

23 MR. ACQUAVIVA: Ms. Fulmer, I don't think
24 you meant to do this, but you've overlooked the
25 November 10 conversation with Ms. Harrison and went

1 straight to November 11.

2 MS. GAUS: Let me back up, then.

3 MR. ACQUAVIVA: You will find that on
4 page 145.

5 MS. GAUS: Yes.

6 MR. ACQUAVIVA: Continuing on to 146.

7 MS. GAUS: Yes. And the one on 146, I
8 will just tell you, Jay, the reason I skipped it is
9 it's not any different, and I can't tell if it's
10 because Ms. Harrison told someone that.

11 MR. ACQUAVIVA: Well, it does say "Spoke
12 to named insured driver" in the Activity section.

13 MS. GAUS: Right. And if you look at what
14 you were just looking at me -- what you were just
15 pointing out, those Facts of Loss mimic the other
16 Facts of Loss. And we can do it for the record too.
17 BY MS. GAUS:

18 Q Mr. Tyner, if you'll look at this
19 page 146, and as Mr. Acquaviva pointed out, this is
20 a note from -- I have to go up one -- November 10th,
21 2015, right there. Do you see that?

22 A I do see that, yes, ma'am.

23 Q And it appears to be a note by someone
24 with regard to the medical payment initial contact;
25 correct?

1 A That's what that says, yes, ma'am.

2 Q And it goes along, and it's a lengthy
3 note, but if you'll look right here where I'm
4 pointing, it's under that red box there, the first
5 red box, and it says "Vehicle damaged/injury
6 mechanism/causation. Named insured stated she was
7 driving the described car not on the job going home
8 when" -- and then the next part of this says "V1
9 exited on 12th Street and Moore, two cars in front
10 of V1. One vehicle made a left into a neighborhood.
11 The car behind the other locked brakes and V1
12 rear-ended V2."

13 Did I read that correctly?

14 A I believe you did, yes, ma'am.

15 Q If we're looking here where the caps start
16 on "V1 exited on 12th Street and Moore," do you see
17 where I am?

18 A I do see that, yes, ma'am.

19 Q If we go back to the note we were just
20 reading from November 6th, the same language appears
21 there in cap, does it not?

22 A I see that, and that is generally the same
23 language, or exactly the same.

24 Q Okay. So this here, is it fair to say
25 this would have been populated by something that was

1 **already in the system about the Facts of Loss?**

2 A No. That appears to be a second contact,
3 in this case, possibly a -- would be a second
4 contact in a third entry with respect to facts
5 provided by Harrison. When the medical payments
6 coverage folks reach out and they enter a contact,
7 they are, again, it's my understanding, confirming
8 the facts of the accident -- not restating them, but
9 they have their own investigation with respect to
10 the items and issues that are raised in that file
11 note.

12 Q **So even though these Facts of Loss read**
13 **identically, is it your testimony that Ms. Harrison**
14 **would have said it exactly the same way both times,**
15 **as she talked to Mr. Blair as when she talked to the**
16 **maker of this note, Devon Hale?**

17 A I can't testify -- and I mentioned this
18 before. I can't testify as to what occurred during
19 these interactions. What I can tell you is only
20 what I see. This appears to be a separate contact.
21 It appears to be a separate entry with respect to
22 confirming the facts of the accident and the other
23 items that are listed. To the extent that those are
24 similar or were shared similarly with the handler,
25 they may have been, in part, copied from one

1 location to another, but I don't -- I simply don't
2 know. I don't -- I don't know what I don't know.

3 Q Right.

4 And if we go back to the November 6th
5 note, do you see this typo on the word
6 "neighborhood"?

7 A Uh-huh.

8 Q The same typo is in this note from
9 November 11th too. Do you see it?

10 A I do. I believe you. I'm not suggesting
11 that they didn't enter the facts in one way or
12 another way, but I haven't concluded that a contact
13 wasn't made to confirm those facts.

14 Q Okay.

15 A That's all I was saying.

16 Q So if we go to Bates No. 144, unless
17 Mr. Acquaviva tells me otherwise, I believe this one
18 here that we were working on, on November 11, 2016,
19 at 4:47 p.m., appears to be a contact that someone
20 by the name of Kevin Fields had made with
21 Ms. Harrison. Is that fair?

22 A I believe so, yes, ma'am.

23 Q And in Mr. Fields' notes, again, he puts
24 in a summary of what he and Ms. Harrison talked
25 about with regard to the Facts of Loss. Is that

1 fair?

2 A I think that's a fair statement. He is
3 making a contact and entering that information, yes.

4 Q And this information says "She indicated
5 another vehicle ahead of vehicle 2 slammed on their
6 brakes causing V2 to stop suddenly and V1 rear-end
7 them."

8 This note is a little bit different than
9 those first notes we looked at, isn't it?

10 A That appears to be a new version that's
11 been introduced to the claim file. I do see that,
12 yes.

13 Q And what's missing from this note is this
14 about a third vehicle turning left in front of
15 Ms. Mason; true?

16 A Are you asking me if that's the
17 difference?

18 Q Yes, sir.

19 A That appears to be a difference.

20 Q Is there any other difference between this
21 statement and the other ones?

22 A I don't know without looking at the
23 documents and comparing one line to the other, but I
24 will say that that seems to be the fundamental
25 difference in the facts that are secured from

1 Q And following this note on page 144, if I
2 can find it. Right here. There's a note on
3 11/11/2015 by Mona Tillette.

4 Do you see that?

5 A Yes, ma'am.

6 Q And it says, "pends named insured Facts of
7 Loss. Did I interpret that correctly?

8 A Yes, ma'am.

9 Q And it says, "Know what caused other
10 vehicle to slam on their brakes."

11 Do you see that?

12 A I see that note, yes, ma'am.

13 Q Do you know if anyone ever answered that
14 question?

15 A I -- I'm so sorry. Tell me -- the issue
16 was addressed in multiple versions of the accident
17 provided by Ms. Harrison. Was it another vehicle --
18 did she do it on her own for no reason? I don't
19 know that that question was answered.

20 I know that the question of liability was
21 answered generally, and I know how that was decided
22 with respect to the facts specific to this loss
23 based on all of the information that was available.

24 Q And focused in on this period of time,
25 long before litigation comes around, someone at

1 Q Okay. In your note here -- I'll give you
2 a chance to go ahead and read that. I'm just going
3 to ask you a couple of questions about it.

4 A Sure. Can you make that just a bit
5 larger?

6 Q Of course.

7 A I'm so sorry. I'm just having a hard time
8 reading it.

9 Q No. It is difficult, and I apologize for
10 that?

11 A Yes, ma'am, I've read that.

12 Q And I'm going to go back one page from
13 this note on page 47, which we established was
14 written on June 29th, 2020, to a note written on
15 July 5th, 2020.

16 Do you see where I am?

17 A Yes, I do.

18 Q And I'll give you a chance to go ahead and
19 read that note?

20 A I see that.

21 Q Okay. In reading those notes, I'm going
22 to pull this down for a minute so I can see you.

23 In reading those notes, do they refresh
24 your memory of what you did to -- what you reviewed
25 in order to respond to Mr. Gass's letter asking for

1 **UM benefits?**

2 A That does help refresh my memory, yes,
3 ma'am.

4 **Q Okay. And what did you review?**

5 A I reviewed the documents that are listed
6 in the notes that I made, and as I've testified to
7 previously, I reviewed portions of the files,
8 particularly as it related to the assessment of
9 liability.

10 In this case, I'm trying to determine if
11 there is persuasive evidence that Ms. Mason is
12 eligible for uninsured motorist coverage due to the
13 negligence, in this case, of a phantom vehicle. I
14 knew she wasn't eligible for an underinsured
15 motorist payment by virtue of the judgment.

16 **Q And with regard to your assessment as to**
17 **the phantom vehicle, if the liability assessment**
18 **itself revealed that there was even one percent**
19 **negligence on the part of the phantom vehicle, would**
20 **that have triggered some payment under Ms. Mason's**
21 **UM coverage?**

22 A I -- Ms. Fulmer, I don't know what might
23 have happened or what could have happened in the
24 loss, but when I reviewed this claim, when I
25 actually reviewed the claim, what I understood was

1 A I'm sorry. You'll have to ask that
2 question again.

3 Q Thank you.

4 In order for you to place a hundred
5 percent liability on Ms. Harrison, you have to
6 disbelieve that there was a phantom vehicle, as she
7 described?

8 A What I had to do was evaluate the evidence
9 that I had, and I've testified to that. It isn't --
10 it isn't that I'm calling Ms. Harrison a liar. It
11 isn't that I don't believe that she may have
12 misremembered the way the accident happened two or
13 three times. That, I will leave for somebody else.
14 What I'm charged with doing is evaluating the
15 evidence and then making a reasonable conclusion
16 based on the evidence.

17 Q With regard to the evidence that you
18 reviewed, the notes we just looked at indicate you
19 looked at some of the materials as they were
20 available on OSCN; true?

21 A I can tell you I did look at the materials
22 that were on OSCN, and one of the documents wasn't
23 there, and I had to review it in summary, but I
24 can't recall which was which at the moment.

25 Q Okay. Would your note refresh your memory

1 on that?

2 A It might. It might. I don't know that
3 I -- I may have commented about the one that I
4 couldn't see but had to surmise. I just -- I'm not
5 sure.

6 Q I'm looking at Exhibit 2.1, SF46. There's
7 a note here "July 5th."

8 Do you see where I am?

9 A I do, yes, ma'am.

10 Q Does this refresh your memory about what
11 you had to get a summary of?

12 A Yes, ma'am.

13 Q And what was that?

14 A It says I reviewed copies of the pretrial
15 conference order jury instructions from Ms. Mason's
16 suit. Also confirmed a pink verdict form. That is
17 the form that I wasn't able to view, but it was
18 referenced on the OSCN site, apparently, that there
19 was a pink verdict form returned by the jury
20 consistent with Instruction No. 20.

21 Q Did you review all of the jury
22 instructions?

23 A I can't recall what portions of them I
24 reviewed. I believe I did review all of the jury
25 instructions, but as I sit here today, two years

1 later, I'm simply not certain. Didn't commit that
2 to memory. I'm sorry.

3 Q Is it your understanding of the manner in
4 which a jury is instructed in the state of Oklahoma
5 that the jury instructions are supposed to be
6 considered as a whole?

7 A I'm not an attorney. It's my
8 understanding that all of the jury instructions that
9 are provided are to be considered.

10 Q Okay.

11 A I don't know if you mean as a whole -- I
12 don't know what that means "as a whole," but I
13 believe all of them are to be considered.

14 Q Do you recall if you reviewed all of the
15 jury instructions?

16 A I answered that to tell you I'm not
17 certain if I reviewed all of the jury instructions
18 or not. I may well have done that. I simply can't
19 recall from two years ago every line that I reviewed
20 from the jury instruction.

21 (Exhibit 3.4 marked for identification)

22 BY MS. GAUS:

23 Q Thank you.

24 I'm going to now share with you

25 Exhibit 3.4. Mr. Tyner, can you see the exhibit

1 **that I've put up?**

2 A Yes, ma'am.

3 Q **And I will represent to you that this is**
4 **Exhibit 3.4, Bates No. SF192 through 194. Can you**
5 **identify this letter for me?**

6 A I can. It's a letter drafted by Jonah
7 Kennedy in response to Mr. Gass's most recent --
8 most recent letter.

9 Q **Is it your testimony that Mr. Kennedy**
10 **drafted this letter?**

11 A He drafted it, yes, and I assisted him
12 with, not only the verbiage, but also review of the
13 documents, on how to access them on OSCN, review of
14 the documents, and then the verbiage that was used.
15 But he's the one who drafted it, wrote it, and I
16 believe mailed -- at least caused it to be mailed.

17 Q **So is it your testimony that Mr. Kennedy**
18 **reviewed the court's pretrial conference order,**
19 **Court's jury instructions and the Court's journal**
20 **entry of judgment as reflected in this first**
21 **paragraph here?**

22 A I believe that I reviewed those with
23 Jonah. Part of his early training with me was how
24 do I get into OSCN? How do I find the statutes?
25 How do I find documents?

1 did not, which is why I did not record it.

2 And one other thing. It was -- it was my
3 asking Mike. I said, "Look, we believed that
4 Harrison was liable for the case," that that was
5 the -- the V2D rear-ending V1 reference, that was
6 based on my review of the issues of liability.

7 And I was also reviewing it in light of
8 Mr. Gass's statement in his letter that the verdict
9 form said something that I simply couldn't identify.
10 I couldn't identify it in what I had looked at up to
11 that point, so I called Mike to say, "Hey, what
12 happened?" And I'm telling you, Mike said, "I don't
13 know. I simply don't know."

14 **Q It's true, is it not, that this verdict**
15 **being a zero verdict was a surprise to the folks at**
16 **State Farm?**

17 A I -- I can't tell you what their reaction
18 to it was. It's surprising to me as I look back on
19 it now, that Ms. Harrison rear-ended the vehicle and
20 that that seems relatively clear, but why the -- why
21 the jury ruled as it did, I simply don't know.

22 **Q Did Mr. Chitwood provide any content for**
23 **the letter that you wrote or that was written back**
24 **to him?**

25 A No. No, ma'am. He did not. We had a

1 very brief conversation, and I said, "Essentially,
2 Mike, what happened here? Am I missing something?
3 Because the allegation that I have in front of me is
4 that a phantom vehicle was deemed responsible for
5 this occurrence?" And he said, "I don't -- I don't
6 know."

7 But, no, I didn't talk to Mike. He wasn't
8 counsel for State Farm. He was counsel for
9 Ms. Harrison, so I would not have spoken to Mike to
10 ask him how to respond to the letter on behalf of
11 State Farm.

12 **Q Did Mr. Chitwood tell you that one of the**
13 **defenses at trial was the phantom vehicle?**

14 A I don't recall his having told me that
15 that was one of the defenses. I do recall him
16 saying "I don't know why it came back the way it
17 did." And then, from there, I went to seek
18 additional information to tell me what the jury was
19 supposed to do.

20 **Q Did you ask Mr. Chitwood about the -- I'm**
21 **sorry. Strike that.**

22 **Did you go back and review what**
23 **Ms. Harrison testified to at trial?**

24 A I've already testified to the fact that I
25 did not see her statement -- I'm sorry, her

1 testimony from the trial. I knew --

2 Q Or her deposition?

3 A I'm sorry? Say again.

4 Q I'm sorry. There were two times she said
5 this. We talked about her deposition earlier and
6 you said you hadn't looked at her deposition, and
7 now I'm asking a different question, which is, if
8 you looked at the testimony at trial, which I
9 believe you're telling me you did not. Is that
10 fair?

11 A I don't believe I went back to review the
12 trial transcripts. In fact, I'm certain I did not
13 go into the trial transcripts.

14 Q Did Mr. Chitwood tell you that during
15 opening statement, defense counsel argued that
16 Ms. Harrison was not at fault for the wreck due to
17 the phantom vehicle?

18 A He wouldn't -- he wouldn't have told me
19 that then. I've described to you my recollection of
20 the content of my discussion with Mike Chitwood, and
21 that is virtually complete. I called Mike to say
22 "What happened? Mr. Gass claims that there was a
23 ruling by the jury that a phantom vehicle caused the
24 accident." And Mike said, "I don't know -- I don't
25 know what happened." But he didn't tell me opening

1 Q Did you have some doubt in your mind that
2 Mr. Gass was making an uninsured motorist claim
3 based in part on the phantom vehicle?

4 A I can go back and read the letter with
5 you. I believe I had a good grasp on his client's
6 testimony, and when you say "based on" -- your
7 question is: Was Mr. Gass's claim based on a
8 phantom vehicle? I don't -- I don't know what that
9 means, but I know that he wouldn't say that the
10 phantom was liable, that his client was legally
11 entitled to collect money from a phantom.

12 What he elected to say was: The jury
13 decided that a phantom vehicle was liable. I
14 believe I'm stating that generally correctly, but we
15 might need to go back to the letter to review it.

16 Q Does the letter to Mr. Gass explain how
17 State Farm came up with its liability determination?

18 A Mr. Gass's letter didn't ask anything
19 about how State Farm came up with a liability
20 determination. The response was directed at the
21 letter that was received in June of 2020. It
22 wouldn't -- I didn't raise every single issue in the
23 claim. At that point, what I did is I responded to
24 Mr. Gass's letter.

25 What I did beyond that was go back and try